

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

August 7, 2023

Christopher M. Wolpert
Clerk of Court

ANTHONY CASTILLO SANCHEZ,

Petitioner - Appellant,

v.

CHRISTE QUICK, Warden, Oklahoma
State Penitentiary,

Respondent - Appellee.

No. 23-6095
(D.C. No. 5:10-CV-01171-HE)
(W.D. Okla.)

ORDER

Before MATHESON, MORITZ, and EID, Circuit Judges.

This matter is before us to decide whether this court has jurisdiction to consider this appeal. Appellant Anthony Sanchez seeks to appeal the district court's order, entered in his 28 U.S.C. § 2254 habeas cases, denying two motions by attorney Eric Allen to be appointed as counsel for Mr. Sanchez and to be substituted as counsel for Mr. Sanchez's clemency hearing. Mr. Sanchez is currently represented by Attorneys Mark Barrett and Randall Coyne.¹

The timely filing of a notice of appeal is both mandatory and jurisdictional.

Bowles v. Russell, 551 U.S. 205, 214 (2007). In a proceeding under 28 U.S.C. § 2254, a

¹ Pursuant to 18 U.S.C. §§ 3006A(c) and 3599(a)(2), Mark Barrett and Randall Coyne are appointed as counsel for Anthony Castillo Sanchez in this appeal. The appointment is effective *nunc pro tunc* to July 18, 2023.

notice of appeal “must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.” Fed. R. App. P. 4(a)(1)(A); *see Manco v. Werholtz*, 528 F.3d 760, 761 (10th Cir. 2008) (applying Fed. R. App. P. 4(a) time limit to § 2254 proceeding).

In this case, the district court denied Mr. Allen’s motions on June 6, 2023. The time to appeal expired thirty days later on July 7, 2023. Mr. Sanchez filed his notice of appeal on July 17, 2023. Although the notice of appeal is dated July 12, 2023, this is still after the time to appeal expired. Because Mr. Sanchez’s notice of appeal was late, this appeal is dismissed for lack of jurisdiction. Mr. Sanchez’s pro se request for counsel of his choice and a stay of execution while he studies the district court’s decisions are denied as moot.

APPEAL DISMISSED.

Entered for the Court,



CHRISTOPHER M. WOLPERT, Clerk